

## PART 659—RAIL FIXED GUIDEWAY SYSTEMS; STATE SAFETY OVERSIGHT

### Subpart A—General Provisions

Sec.

659.1 Purpose.

659.3 Scope.

659.5 Definitions.

659.7 Withholding of funds for non-compliance.

### Subpart B—The Role of the State

659.21 Designation of oversight agency.

659.23 Confidential investigation reports.

### Subpart C—The Oversight Agency's Role

659.31 The system safety program standard.

659.33 System safety program plans.

659.35 Transit agency annual audit reports.

659.37 Safety reviews.

659.39 Transit agency report on accidents and unacceptable hazardous conditions.

659.41 Investigations.

659.43 Corrective actions.

659.45 Oversight agency report to the Federal Transit Administration.

659.47 Use of contractors.

659.49 Certification of compliance.

APPENDIX TO PART 659—SAMPLE CERTIFICATION OF COMPLIANCE.

AUTHORITY: 49 U.S.C. § 5330.

SOURCE: 60 FR 67046, Dec. 27, 1995, unless otherwise noted.

### Subpart A—General Provisions

#### § 659.1 Purpose.

This part implements 49 U.S.C. 5330 by requiring a State to oversee the safety of rail fixed guideway systems through a designated oversight agency.

#### § 659.3 Scope.

This part applies to a State that has within its boundaries a rail fixed guideway system not regulated by the Federal Railroad Administration (FRA).

#### § 659.5 Definitions.

As used in this part—

*Accident* means any event involving the revenue service operation of a rail fixed guideway system if as a result:

(1) An individual dies;

(2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or

(3) A collision, derailment, or fire causes property damage in excess of \$100,000.

*APTA Guidelines* means the American Public Transit Association's "Manual for the Development of Rail Transit System Safety Program Plans," published on August 20, 1991.

*Contractor* means an entity that performs tasks required by this part on behalf of the oversight or transit agency. The transit agency may not be a contractor for the oversight agency.

*FTA* means the Federal Transit Administration, an agency within the U.S. Department of Transportation.

*Hazardous condition* means a condition that may endanger human life or property. It includes unacceptable hazardous conditions.

*Investigation* means a process to determine the probable cause of an accident or an unacceptable hazardous condition; it may involve no more than a review and approval of the transit agency's determination of the probable cause of an accident or unacceptable hazardous condition.

*Oversight agency* means the entity, other than the transit agency, designated by the State or several States to implement this part.

*Rail fixed guideway system* means any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway that is:

(1) Included in FTA's calculation of fixed guideway route miles or receives funding under FTA's formula program for urbanized areas (49 U.S.C. 5336); and

(2) Not regulated by the Federal Railroad Administration.

*Safety* means freedom from danger.

*Safety review* means a formal, comprehensive, on-site examination by the oversight agency of a transit agency's safety practices to determine whether they comply with the policies and procedures required under the transit agency's system safety program plan.

*Security* means freedom from intentional danger.

*System safety program plan* means a document adopted by the transit agency detailing its safety policies, objectives, responsibilities, and procedures.

*System safety program standard* means the standard developed and adopted by the State oversight agency which, at a

minimum, complies with the APTA Guidelines and which addresses personal security.

*Transit agency* means an entity operating a rail fixed guideway system.

*Unacceptable hazardous condition* means a hazardous condition determined to be an unacceptable hazardous condition using the APTA Guidelines' Hazard Resolution Matrix (APTA Guidelines, checklist number 7).

**§ 659.7 Withholding of funds for non-compliance.**

The Administrator of the FTA may withhold up to five percent of the amount required to be apportioned for use in any State or affected urbanized area in such State under FTA's formula program for urbanized areas for any fiscal year beginning after September 30, 1997, if the State in the previous fiscal year has not met the requirements of this part and the Administrator determines that the State is not making adequate efforts to comply with this part.

**Subpart B—The Role of the State**

**§ 659.21 Designation of oversight agency.**

(a) For a transit agency or agencies operating within a single State, the State must designate an agency of the State, other than a transit agency, to serve as the oversight agency and to implement the requirements of this part.

(b) For a transit agency operating a system within more than one State, those States may designate a single entity, other than the transit agency, to implement the requirements of this part.

**§ 659.23 Confidential investigation reports.**

The State may prohibit an investigation report that may be prepared by the oversight agency from being admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report.

**Subpart C—The Oversight Agency's Role**

**§ 659.31 The system safety program standard.**

(a) The oversight agency must develop and adopt a system safety program standard that, at a minimum—

(1) Complies with the American Public Transit Association's "Manual for the Development of Rail Transit System Safety Program Plans" (APTA Guidelines) published on August 20, 1991, hereby incorporated by reference; and

(2) Requires the transit agency to address the personal security of its passengers and employees.

(b) The APTA Guidelines specify procedures for developing a system safety program plan, generally discuss the principles of system safety, and specifically address certain issues critical to the safe operation of a rail fixed guideway system.

(c) The incorporation by reference of the APTA Guidelines has been approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the APTA Guidelines may be obtained from the American Public Transit Association, 1201 New York Avenue, NW., Washington DC 20005-3917, (202) 893-4000. The Guidelines may be inspected at, and are available from the Federal Transit Administration, Office of Safety and Security, 400 7th Street, SW., Washington, D.C. 20590, and at the Office of the Federal Register, 800 North Capitol Street, NW., Washington, DC.

**§ 659.33 System safety program plans.**

(a) Except as provided in § 659.33(b), the oversight agency must —

(1) Require the transit agency to implement, beginning on January 1, 1997, a system safety program plan conforming to the oversight agency's system safety program standard; and

(2) Approve in writing before January 1, 1997, the transit agency's system safety program plan.

(b) The oversight agency must —

(1) Require the transit agency to implement beginning on January 1, 1998,